



WEB COPY



W.P.No.66 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.66 of 2020
W.M.P.Nos.72 & 73 of 2020

V.M.Shanmuganathan

... Petitioner

Vs.

1. The Principal Secretary to Government,
Co-operation, Food and Consumer
Protection Department,
Fort St. George,
Chennai – 600 009.

2. The Registrar of Co-operative
Societies (Housing),
Kilpauk, Chennai – 600 010.

3. The Joint Registrar of Co-operative
Societies (Housing),
Erode Region, Erode.

4. The Deputy Registrar of Co-operative
Societies (Housing),
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Cetrriorarified Mandamus, calling for the records of the first respondent in review petition in G.O.(D)No.139 dated



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06.07.2017, confirming the order in G.O.(D).No.184 dated 18.08.2016, which passed confirming the order of the second respondent dated 08.12.2008 made in Na.Ka.No.66549/2007 Oona 3, confirming the order of third respondent dated 22.03.2007, made in Na.Ka.186/2003 aa3, and quash the same and direct the respondents to reinstate the petitioner into the service, allow him to retire and consequentially settle his terminal benefits and pensionary benefits.

For Petitioner : Mr.R.Thiruganam
For Mr.S.Umapathy

For Respondents : Mr.M.Murali
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent in review petition in G.O.(D)No.139 dated 06.07.2017, confirming the order in G.O.(D).No.184 dated 18.08.2016, which passed confirming the order of the second respondent dated 08.12.2008 made in Na.Ka.No.66549/2007 Oona 3, confirming the order of third respondent dated 22.03.2007, made in Na.Ka.186/2003 aa3, thereby dismissing the petitioner from service.



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2. The petitioner was selected and appointed as Junior Inspector of Co-operative Societies on 05.02.1968. Thereafter, he was promoted to the post of Senior Inspector of Co-operative Societies and Co-operative Sub Registrar and thereafter Special officer. While being so, the petitioner was served with charge memo consisting three charges as follows :-

“ALLEGATION No.1:-

While he worked as the Special Officer of the Erode Co-operative Housing Society from 13.6.1992 to 27.10.1995 the petitioner misused his powers and thereby he had admitted his wife Tmt.S.Jeyalakshmi as a member of the Erode Co-operative Housing Society (M.No. 10664), who is not a native of Erode Municipality (now Corporation) but she is a native of Nilakkottai of Madurai District. The petitioner has also allotted the unsold Plot No. 182 ([R.S.No. 131/2](#)), Teachers colony at Erode, measuring an extent of total 1920 square feet for Rs.19,260/-(Rupees Nineteen Thousand Two hundred and Sixty only) at the rate of Rs.10.03 per square feet to the petitioner's wife Tmt.S.Jeyalakshmi and it was registered on 16.7.1992. The Government guideline value of the site is Rs.48.30 per square feet and the total value amounting to Rs.92,736/-(Rupees Ninety Two Thousand Seven



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Hundred and Thirty Six only). In such a way, the petitioner has made a loss to the society to a sum of Rs.73,476/-(Rupees Seventy Three Thousand four hundred and Seventy Six only). Besides, the petitioner has not obtained prior permission from the administrative Department.

ALLEGATION No.2

Further, it was alleged that the petitioner has admitted his mother-in-law Tmt. Palaniammal as member (M.No.10770) of the society and allotted the reserve site No.76(R.S.No.124/2) at E.B.Colony, Erode measuring an extent of total 1266 square feet for Rs. 12,700/-(Rupees Twelve Thousand Seven Hundred only) at the rate of Rs.10.03 per square feet and it was registered in her name on 8.3.1993. The Government guideline value of the site is Rs.60,762/- (Rupees Sixty Thousand Seven hundred and sixty two only). In such a way, the petitioner has made a loss to the society to a sum of Rs.48,062/-(Rupees Forty Eight thousand and Sixty Two only). Besides, it is stated that Tmt. Palaniammal, the petitioner's mother-in- law is not a native of Erode Municipality (now Corporation) but she is a native of Natham Village of Dindigul District. Thus, the petitioner misused his power as a Special Officer.



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ALLEGATION No:3:-

It was further alleged that the petitioner has allotted the following construction works to Thiru. N. Jayaraman, M/s. J.R. Constructions, an unapproved Contractor for personal gains by violating the bylaws of the society and official procedures and without obtaining the prior permission of the Registrar (Housing), Chennai-20.

(i) Construction of Additional office building Ground Floor at Erode Cooperative I-Housing Society;

(ii) Over Head Tank Construction work at Solar Cooperative Nagar;

(iii) Over Head Tank construction work at Periya Semur.

In addition to this, before completing the construction work the petitioner disbursed the amount by means of cheques to the contractor Thiru. N.Jayaraman and alleged that the petitioner has obtained Rs.5,41,200/- as detailed below:-

S. No.	Name of the work	Amount disbursed prior to completion of work	Amount obtained by the petitioner
1	Construction of Additional Office building ground floor	Rs.2,75,000/-	Rs.1,10,000/-
2.	Over head tank construction at Solar cooperative nagar	Rs.5,78,000/-	Rs.2,31,200/-



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S. No.	Name of the work	Amount disbursed prior to completion of work	Amount obtained by the petitioner
3.	Over head tank construction at Periya Semur Scheme	Rs.5,00,000/-	Rs.2,00,000/-
	<i>Total</i>	Rs.13,53,000/-	Rs.5,41,200/-

3. Pending charges, the petitioner attained the age of superannuation. However, he was not allowed to retire from service and he was placed under suspension. After receipt of the explanation from the petitioner, an enquiry officer was appointed and conducted enquiry. On the strength of the enquiry report, once again the petitioner was issued with second show cause notice and on receipt of the explanation, the third respondent dismissed the petitioner from service. Aggrieved by the same, the petitioner filed an appeal and the same was also dismissed. Once again, the petitioner filed another appeal and the same was also dismissed by confirming the order passed by the third respondent. Again the petitioner filed review petition before the first respondent and the same was also rejected by an order dated 06.07.2017. Hence the present writ petition.



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4. The learned counsel appearing for the petitioner submitted that the petitioner was allegedly charged with dereliction of duty and therefore, the punishment of removal from service is not proportionate to the charges. That apart, the disciplinary authority viz., the third respondent without following the procedure as contemplated under Rule 17(b)(2) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules. Further, the first respondent should consult with the Tamil Nadu Public Service Commission for its advise and such advise shall be taken consideration before imposing any punishment. However, without consulting the Tamil Nadu Public Service Commission, the first respondent confirmed the order passed by the third respondent.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the counter filed by the respondents and on the submissions made by the learned Government Advocate revealed that Section 17(b)(2) is not a statutory requirement under the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, since the petitioner



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belongs to Tamil Nadu Subordinate Services. Further, the first respondent had consult with the Tamil Nadu Public Service Commission and confirmed the order passed by the third respondent. That apart, the petitioner filed writ petition after the period of three years from the date of order that too in the review application. There is absolutely no explanation for the delay in filing the writ petition.

7. Further the petitioner was appointed as Special Officer under Sub Section (1) Section 89 of the Tamil Nadu Co-operative Societies Act, 1983, and he shall discharge all the functions of the Board which are specified in the bylaws of the society. But the petitioner admitted his wife and mother-in-law as members, who were not residing within the area of operation of the society and allotted house sites to them willfully and neglected his official and statutory duties in violation of the provisions of the bylaw of the society with ulterior motive and for his personal gain without adhering the provisions. It is highly contrary to the bylaws and misused his official capacity, thereby caused loss to the society to the tune of Rs.73,476/-.



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8. Further the petitioner did not obtain any prior permission from the administrative department that too for allotment of house plots to his wife and mother-in-law. The bylaw No.46 of the society provides for the allotment of house sites. The sub-clause 1(e), (f), (g) and (k) deals with the application for allotment, seniority, maintenance, declaration of the person, payment of advance, agreements and approval of allotments. The bylaw No.78 provides for the use and disposal of premises and immovable properties with prior approval of the Registrar. Prior to the allotment of sites in favour of the petitioner's wife and mother-in-law, the petitioner had willfully failed to adhere to the bylaw provisions and grossly neglected his official duties.

9. Therefore, the enquiry officer concluded that all the charges are proved and the petitioner was rightly imposed with the punishment of removal from service. The appellate authority also elaborately discussed the grounds raised by the petitioner and dismissed the appeal. This Court finds no infirmity or illegality in the orders passed by the respondents and the writ petition is devoid of merits and liable to be dismissed.



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10. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

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Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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